

ARTICLE 28

(Zoning Bylaw Amendment: Commercial Uses)

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket as follows:

1. To delete section 9 as follows (*NOTE: new language is shown as highlighted text, language to be deleted is shown by strikeout; these methods to denote changes are not meant to become part of the final text*):

~~A. Permitted uses:~~

- ~~(1) Retail sales, including on-premises light manufacturing or fabrication clearly ancillary to the retail sales; except for formula business within the FBED. [Amended 4-4-2006 ATM by Art. 42, AG approval 10-26-2006]~~
- ~~(2) Offices, both public and private, including banking, brokers and other financial services.~~
- ~~(3) Transient residential facilities, except that transient residential facilities shall only be permitted in the RC District and not RC-2.~~
- ~~(4) Restaurants, except for formula business within the FBED. [Amended 4-4-2006 by Art. 42, AG approval 10-26-2006]~~
- ~~(5) Personal services.~~
- ~~(6) Theaters, auditoriums and other places of public assembly.~~
- ~~(7) Parking at grade in parking areas or in parking garages.~~
- ~~(8) Parks and playgrounds.~~
- ~~(9) Production, processing, building, cleaning, fueling, testing, repair, storage and servicing of boats.~~
- ~~(10) Maritime service stations for the retail sale of fuel, lubricants and accessories, and minor services incidental thereto.~~
- ~~(11) Yachting and sailing clubs, marinas and other maritime-related recreational facilities.~~
- ~~(12) In the RCDT District only, up to four residential apartments containing a maximum of two bedrooms per apartment located on the second or third floor based upon the following density calculation:-~~

Type of Apartment	Density Calculation
Apartment subject to Nantucket Housing Needs Covenant	One per 1,250 square feet of land of the subject lot. A maximum of four NHNC apartments are allowed on any lot.
An apartment not subject to a Nantucket Housing Needs Covenant	One per 2,500 square feet of land of the subject lot. A maximum of two apartments are allowed on any lot.

- ~~(a) Such apartment, if built, shall be the only dwelling unit(s) on the lot.~~
- ~~(b) Density calculations shall be cumulative so that a 2,500 square foot area lot would allow up to two NHNC units or one non-NHNC unit. A 3,750 square foot area lot would allow one NHNC apartment and one non-NHNC apartment. A 5,000 square foot area lot would allow four NHNC or two non-NHNC apartments or a combination thereof.~~

~~B. Exceptions. The Board of Appeals may grant a special permit to allow the following uses:~~

- (1) Taverns and bars (which may also be permitted as accessory to a conforming restaurant use).
- (2) The following commercial or municipal uses, provided that the Board of Appeals shall specifically find, in addition to the other requirements of this chapter as to the granting of a special permit, that the use will not inherently be in violation of § 139-7E(4):
 - (a) Light manufacturing.
 - (b) Storage and warehousing, including properly screened open storage of goods and materials.
 - (c) Fabrication and assembly of component parts for off-site construction or use.
 - (d) Petrochemical storage and transfer facilities in properly constructed packaging containers.
 - (e) Public utility production and distribution facilities.
 - (f) Printing and publishing.
 - (g) Garages for storage, repair, washing, painting or other servicing of motor vehicles.
 - (h) Public transportation facilities.
 - (i) Food processing, manufacturing and packaging.
 - (j) Maritime research facilities.
 - (k) Asphalt manufacturing facilities.
 - (l) Rental or sale of bicycles, motorcycles, motor scooters, mopeds, automobiles, trucks and other such motorized land transports or means of conveyance.
 - (m) Taxi business in which more than three licensed vehicles are used.
 - (n) Licensed junkyards.
 - (o) Take-out food establishment (which also may be allowed under § 139-15 as accessory to a permitted food establishment use).
 - (p) Laundering and "dry" or other chemical-type cleaning services, both public and non-public (but not including private on-site residential allowed as accessory uses).
 - (q) A trailer or building-like container as a principal or accessory building or structure for storage required by the Nantucket Fire Department of equipment and/or chemicals.
 - (r) Adult uses in the RC-2 District only, subject to conditions set forth in § 139-23.

2. To delete section 10 in its entirety as follows (*NOTE: new language is shown as highlighted text, language to be deleted is shown by strikethrough; these methods to denote changes are not meant to become part of the final text*):

(See also §§ 139-7 and 139-8.)

A. Permitted uses:

- (1) Rooming, lodging and guest houses.
- (2) Nonprofit clubs.
- (3) Recreational facilities.

B. Exceptions. The Board of Appeals may grant a special permit to allow the following uses:

- (1) Nonprofit cultural and artistic facilities.
- (2) Retail sales and personal services, except for formula business within the FBED.
[Amended 4-4-2006 ATM by Art. 42, AG approval 10-26-2006]
- (3) Business, professional, financial and public offices.
- (4) Restaurants, hotels, motels and inns, except for formula business within the FBED.
[Amended 4-4-2006 ATM by Art. 42, AG approval 10-26-2006]

- (5) ~~Marinas and other maritime-related recreation and commercial facilities, including maritime service stations for the retail sale of fuel, lubricants and accessories, and minor services incidental thereto.~~

~~C. Elder housing facilities. The Planning Board may grant a special permit for an elder housing facility, subject to its making the finding set forth in Subsection C(1) below, and subject to the following provisions:~~ **[Added 4-15-2003 ATM by Art. 35, AG approval 8-27-2003]**

- (1) ~~The grant of a special permit for an elder housing facility hereunder shall be based upon a finding by the Planning Board that the proposed use, as conditioned by the decision granting the special permit, will be of benefit to the Town and its residents, and will not be substantially more detrimental to the neighborhood than existing uses upon the property where the facility is proposed, or other uses which are permitted thereon as a matter of right.~~
- (2) ~~The Planning Board may impose such conditions as it deems appropriate upon the granting of a special permit hereunder.~~
- (3) ~~The off-street parking requirements under § 139-18 shall not be applicable to an elder housing facility hereunder. The Planning Board shall, as a part of the decision granting a special permit, establish the number of parking spaces required for a facility approved hereunder. One off-street loading space under § 139-20 shall be provided in each facility permitted hereunder.~~
- (4) ~~An elder housing facility permitted hereunder shall be subject to major site plan review under § 139-23.~~
- (5) ~~An elder housing facility may consist of multiple apartments in one or more buildings and separate cottages. The total number of units used in the elder housing facility shall not exceed one for each 2,500 square feet of lot area in the tract of land upon which the facility is situated.~~
- (6) ~~Included in the total number of dwelling units in the elder housing facility, there may be constructed upon the tract of land upon which the facility is situated employee housing for staff employed by the elder housing facility, containing no more than three dwelling units.~~
- (7) ~~All residents of the elder housing facility shall be either 62 years of age or older or shall be the spouse or physically or mentally disabled immediate family member of a resident who is 62 years of age or older.~~
- (8) ~~In determining whether a proposed elder housing facility will be of benefit to the Town and its residents, the Planning Board shall consider the provision of affordable housing units for some residents of the facility as being of such benefit.~~
- (9) ~~An elder housing facility permitted hereunder shall be exempt from the phased development provisions of § 139-24.~~

3. To insert in section 9 the following use table:

Commercial Uses By Zoning District								
Uses	Districts							
	CDT	CMI	CN	CTEC	CI	RC	RC-2	LC
Retail Sales	Y	Y	Y	A	A	Y	Y	Y
Restaurants								
Small (up to 70 seats)	Y	Y	SP	N	N	Y	Y	SP
Large (70 to 200 seats)	SP	SP	N	N	N	Y	Y	SP
Take-Out Food Establishment	Y	Y	SP/A	N	N	SP	SP	N
Tavern/Bar	Y	Y	SP	N	N	SP	SP	N

Commercial Uses By Zoning District									
Uses	Districts								
	CDT	CMI	CN	CTEC	CI		RC	RC-2	LC
Formula Businesses									
Retail	N	Y	Y	N	N		Y/N in FBED	Y	SP/N in FBED
Restaurant									
Small (up to 70 seats)	N	SP	SP	N	N		Y/N in FBED	SP	SP/N in FBED
Large (70 to 200 seats)	N	SP	N	N	N		Y/N in FBED	SP	SP/N in FBED
Take-Out Food Establishment	N	SP	SP	N	N		Y/N in FBED	SP	N
Tavern/Bar	N	SP	SP	N	N		Y/N in FBED	SP	N
Theatres, Auditoriums, or Other Places of Public Assembly	Y	SP	SP	N	N		Y	Y	N
Offices	Y	Y	Y	A	A		Y	Y	SP
Personal Services	Y	Y	Y	A	N		Y	Y	SP
Laundromat or Dry-cleaning Establishment	SP	SP	SP	SP	N		SP	SP	N
Bank	Y	Y	Y	N	N		Y	Y	SP
Art Gallery	Y	Y	Y	N	N		SP	SP	SP
Transient Residential Facilities									
Hotel or Inn	SP	SP	N	N	N		Y	N	SP
Motel	N	N	Y	N	N		Y	N	SP
Rooming, Lodging, or Guest House	Y	Y	Y	N	N		Y	N	Y
Time-Sharing/Interval Dwelling Unit(s)	Y	Y	Y	N	N		Y	N	Y
Elder Housing Facilities	N	Y	SP	N	N		N	N	SP
Light Manufacturing	N	N	A	SP/A	Y		SP	SP	N
Food Processing	N	N	SP	SP	Y		SP	SP	N
Interior or Exterior Storage or Warehousing	N	N	A	SP/A	Y		SP	SP	N
Asphalt/Batching Plant	N	N	N	N	Y		SP	SP	N
Licensed Junkyards	N	N	N	N	SP		SP	SP	N
Transfer Station	N	N	N	N	SP		N	N	N
Petroleum Product Storage or Distribution Facility (i.e Tank Farm)	N	N	N	N	Y		SP	SP	N
Utility Production/ Distribution	SP	SP	SP	SP	Y		SP	SP	N
Print Shop	Y	Y	Y	Y	N		SP	SP	N
Motor Vehicle Sales	N	SP	SP	N	SP		SP	SP	N

Commercial Uses By Zoning District									
Uses	Districts								
	CDT	CMI	CN	CTEC	CI		RC	RC-2	LC
Motor Vehicle Rental	Y	N	SP	N	N		SP	SP	N
Motor Vehicle Repair or Painting	N	SP	SP	SP	Y		SP	SP	N
Motor Vehicle Parking Lots or Structures	Y	Y	Y	SP	N		Y	Y	N
Car Wash	N	SP	N	N	SP		SP	SP	N
Taxi Cab Business	N	Y	Y	Y	N		SP	SP	N
Bicycle Rental or Sale	N	N	N	SP	N		SP	SP	N
Boat Related Storage	N	N	SP	Y	Y		Y	Y	N
Uses	Districts								
	CDT	CMI	CN	CTEC	CI		RC	RC-2	LC
Maritime Service Station	Y	Y	Y	Y	Y		Y	Y	SP
Yacht/Sailing Clubs and Marinas	Y	N	N	N	N		Y	Y	SP
Adult Uses	N	N	N	N	SP		N	SP	N
Arcade	N	SP/A	SP/A	N	N		A	A	A
Automated Teller Machine	Y/A	Y/A	Y/A	N	N		Y	Y	SP
Bakery	Y	Y	Y	Y	N		SP/A	SP/A	A
Catering	N	Y	Y	Y	N		SP/A	SP/A	A
Club	Y	Y	Y	N	N		Y	Y	Y
Contractor Shop	N	N	SP	Y	Y		SP	SP	N
Convenience Store	Y	Y	Y	N	N		Y	Y	SP
Crematorium	N	N	N	N	Y		A	A	A
Drive-Through Take-Out Food	N	N	SP	N	N		SP	SP	N
Funeral Home	Y	Y	Y	N	N		Y	Y	A
Health Spa	Y	Y	Y	N	N		Y	Y	Y
Landscape Contractor	N	N	SP	Y	Y		SP	SP	N
Alcohol Sales	Y	Y	SP/A	N	N		Y	Y	SP
Medical Clinic	N	SP	SP	N	N		Y	Y	SP
Mining	N	N	N	N	Y		SP	SP	N
Motor Vehicle Service Station	N	SP	SP	SP	N		SP	SP	N
Museum	Y	N	SP	N	N		Y	Y	N
Open Air Market	Y	Y	Y	N	N		Y	Y	N
Pharmacy	Y	Y	Y	N	N		Y	Y	SP
Supermarket	Y	Y	SP	N	N		Y	Y	SP
Truck/Bus Terminal	N	N	N	SP	Y		SP	SP	N

N = No
Y = Yes
SP = Special Permit
A = Accessory Use as defined in 139-15
FBED = Formula Business Exclusion District

4. To amend section 2 by inserting the following definitions to be inserted alphabetically:

ALCOHOLIC BEVERAGE SALES - A facility for the retail sale of beer, wine, or other alcoholic beverages for off-premise consumption.

ARCADE - A place or facility where any electric or electronic machine, such as pinball or other similar electronic games, are played for amusement only. Shall not be construed so as to include bingo games, juke boxes, children's mechanical rides (e.g., horses, rocket ships), or machines that sell merchandise nor shall it be construed so as to include gambling devices or any other devices prohibited by law.

AUTOMOBILE SERVICE STATION - Any building, structure or land used primarily for the dispersal, sale, or offering for sale of automotive fuels, oils or accessories, including lubrication of automobiles and replacement or installation of minor parts and accessories, but not including major repair work, such as motor replacement or rebuilding, body and fender repair, or painting.

CATERING SERVICE - An establishment in which food, meals, and incidental services are prepared and then delivered to another location for consumption.

CLINIC, MEDICAL OR DENTAL - Offices organized as a unified facility by one or more physicians, dentists, chiropractors or other licensed practitioners to provide medical or dental treatment and examination, but not including bed-patient care.

CLUB - Buildings and facilities, owned or operated by a corporation, association, person or persons, for a social, educational, or recreational purpose, to which membership is required for participation and not primarily operated for profit nor to render a service that is customarily carried on as a business.

CONTRACTORS SHOP - An establishment used for the indoor repair, maintenance, or storage of a contractor's vehicles, equipment, or materials, and may include the contractor's business office but which does not use any exterior storage area.

CONVENIENCE STORE - A retail store offering for sale groceries and household items intended for the convenience of the neighborhood with a floor area of less than 2,500 square feet; does not include automotive service stations or vehicle repair shops.

FOOD PROCESSING ESTABLISHMENT - Manufacturing establishments that produce or process foods for human consumption. Includes: (1) bakery products, sugar and confectionery products (except facilities that produce goods only for on-site sales with no wider distribution); (2) dairy products processing; (3) fats and oil products (including rendering plants); (4) fruit and vegetable canning, preserving, and related processing; (5) grain mill products and by-products; (6) meat, poultry, and seafood canning, curing, and byproduct processing; and (7) distilleries.

HEALTH SPA - A place or building where massage, beauty treatment, cosmetic procedures, and related activities take place.

LANDSCAPE CONTRACTOR - A business engaged in the decorative and functional alteration, planting, and maintenance of grounds. Such a business may engage in the installation and construction of underground improvements but only to the extent that such improvements (e.g., drainage facilities) are accessory to the principal business and are necessary to support or sustain the landscaped surface of the ground.

LIGHT MANUFACTURING - An establishment engaged in the indoor manufacturing, processing, or fabrication of materials or products.

OPEN AIR MARKET - An occasional or periodic market held in an open area or in a structure where groups of individual sellers licensed by the Board of Selectmen offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages (but not to include second-hand goods) dispensed from booths located on-site

PERSONAL SERVICES ESTABLISHMENT - Establishments providing frequent or recurrent needed specialized non-medically related services, including beauty and barber shops; clothing rental, garment repair, shoe repair shops, tanning salons, photographic studios, psychic readers, tattoo or body piercing studio. These uses may also include accessory retail sales of products related to the services provided.

PHARMACY - An establishment engaged in the retail sale of prescription drugs, nonprescription medicines, home and personal care products, and related supplies.

PRINT SHOP - A retail establishment that provides duplicating services using photocopying, blueprint, and offset printing equipment and may include the collating and binding of booklets and reports.

TAXICAB BUSINESS - A service that offers transportation utilizing three (3) or more motor vehicles to persons, including those who are handicapped, in return for remuneration.

SUPERMARKET - Store where most of the floor area is devoted to the sale of food products for home preparation and consumption, which typically also offer other home and personal care products, and which are substantially larger and carry a broader range of merchandise than convenience stores or pharmacies.

TRUCK/BUS TERMINAL - A facility for the receipt, transfer, short-term storage, or dispatching of goods transported by truck or the storage, service, or maintenance of buses not in active transport of passengers. Included in the use type would be express and other mail and package distribution facilities, including such facilities operated by the U.S. Post Office.

5. To amend section 7, subsection F(8)(d)(1) by deleting the following and renumbering subsection F(8)(d)(2) accordingly:

As part of the MRD special permit application, an applicant may request designation of a lot within the MRD subdivision for a nonresidential use. Said nonresidential use shall be limited to 2,000 gross square feet of small-scale, neighborhood-oriented retail or office use ~~as allowed in § 139-10B(1), (2) or (3).~~ As part of the MRD submission, an applicant must provide information which supports the need or necessity of the proposed nonresidential use. Proposed nonresidential uses shall be appropriately scaled for a village setting, and shall be designed to complement the overall function and architecture of the immediate area as determined by the Planning Board.

6. To amend section 8 as follows:

§ 139-8. Residential Districts R-1, R-10, SR-2 and ROH and Residential Commercial Districts RC, RC-2, RCDT, CN, CTEC and LC. [Amended 4-9-2001 ATM by Art. 25, AG approval 8-24-2001]

(See also §§ 139-7, 139-9 and 139-11.)

A. Permitted uses: [Amended 4-10-2002 ATM by Art. 45, AG approval 7-31-2002; 4-15-2003 ATM by Art. 26, AG approval 8-27-2003]

- (1) In the R-1, R-10, RC, RC-2, RCDT, CN, CTEC and LC (but not SR-2 or ROH) Districts, one duplex dwelling containing two dwelling units; provided that: **[Amended 10-19-2004 STM by Art. 11, AG approval 2-22-2005]**

- (a) Any lot on which the two dwelling units are located shall not contain any additional dwellings or dwelling units; and
- (b) One of the two dwelling units shall be a secondary dwelling unit.
- (c) In the R-1 and LC Districts, the two dwelling units shall be in the same ownership. Editor's Note: Former Subsection A(1)(d), regarding duplexes in the R-10 District, which immediately followed this

subsection, was repealed 4-4-2006 ATM by Art. 46, AG approval 8-2-2006.

- (2) Any municipal use, including, but not limited to, offices, schools, parks, libraries and recreational uses.

7. To amend section 8 as follows:

B. Exceptions. The Board of Appeals may grant a special permit to allow the following uses:

~~(1) Commercial profit making businesses operating community recreational facilities, such as golf courses, tennis, paddle and racquet courts, bowling alleys, fitness centers or the like; provided they are not substantially more detrimental to the neighborhood nor the environment than existing or permitted alternative uses of the lot.~~

~~(2)~~ Neighborhood service establishments such as barber, beauty, shoe repair, tailor shops, funeral homes, photographer's studios, art gallery, art salon, antique/craft shop, and upholsterers' shops. No service establishment shall exceed 3,000 square feet of floor area, and the aggregation of such service establishments on a lot (or on contiguous lots in one ownership) shall not exceed 4,000 square feet of floor area [Amended 4-12-1999 ATM by Art. 34, AG approval 8-10-1999]

~~(3)~~
(2) A multibed hospital with any ancillary doctors' and dentists' offices.

Or, to take any other action related thereto.

(Board of Selectmen for Planning Board)